

PART 3—PUBLIC EDUCATION BENEFITS

SEC. 615. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

“SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States' economies and depletes States' limited educational resources, Congress declares it to be the policy of the United States that—

“(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

“(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

“(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

“(1) aliens who are lawfully present in the United States, or

“(2) benefits other than public education benefits provided under State law.

“AUTHORITY OF STATES

“SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

“(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child's behalf)—

“(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of United States and (if required by a State) presents evidence of United States citizenship or nationality; or

“(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is lawfully present in the United States, and

“(B) presents either—

“(i) alien registration documentation or other proof of immigration registration from the Service, or

“(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is lawfully present in the United States.

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien's immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

“(c) If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.”

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end the following new items:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

“Sec. 602. Authority of States.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

It was decided in the { Yeas 257
affirmative } Nays 163

§31.15 [Roll No. 75]
AYES—257

Allard	Foley	Mascara
Archer	Forbes	McCollum
Arney	Fowler	McCrery
Bachus	Fox	McDade
Baker (CA)	Franks (CT)	McHale
Baker (LA)	Franks (NJ)	McHugh
Ballenger	Frelinghuysen	McInnis
Barr	Frisa	McIntosh
Barrett (NE)	Funderburk	McKeon
Bartlett	Galleghy	Metcalf
Bass	Ganske	Meyers
Bateman	Gekas	Mica
Bereuter	Geren	Miller (FL)
Bevill	Gilchrest	Minge
Bilbray	Gillmor	Montgomery
Bilirakis	Gingrich	Moorhead
Bliley	Goodlatte	Moran
Blute	Goodling	Murtha
Boehner	Gordon	Myers
Bonilla	Goss	Myrick
Bono	Graham	Nethercutt
Brewster	Greenwood	Neumann
Browder	Gutknecht	Ney
Brownback	Hall (OH)	Norwood
Bryant (TN)	Hall (TX)	Nussle
Bunning	Hamilton	Oxley
Burr	Hancock	Packard
Burton	Hansen	Parker
Buyer	Hastert	Paxon
Callahan	Hastings (WA)	Peterson (MN)
Calvert	Hayes	Petri
Camp	Hayworth	Pickett
Canady	Hefley	Pombo
Cardin	Hefner	Portman
Castle	Heineman	Poshard
Chabot	Herger	Pryce
Chambliss	Hillier	Quillen
Chenoweth	Hobson	Ramstad
Christensen	Hoekstra	Regula
Chrysler	Hoke	Riggs
Clement	Holden	Roberts
Clinger	Horn	Roemer
Coble	Hunter	Rogers
Coburn	Hutchinson	Rohrabacher
Collins (GA)	Hyde	Roth
Combest	Inglis	Roukema
Condit	Istook	Royce
Cooley	Jacobs	Salmon
Costello	Johnson (CT)	Saxton
Cox	Johnson (SD)	Scarborough
Cramer	Johnson, Sam	Schaefer
Crane	Jones	Seastrand
Crapo	Kanjorski	Sensenbrenner
Creameans	Kaptur	Shadegg
Cubin	Kasich	Shaw
Cunningham	Kelly	Shays
Danner	Kim	Shuster
Davis	King	Sisisky
Deal	Kingston	Skeen
DeLay	Klink	Smith (MI)
Deutsch	Klug	Smith (NJ)
Dickey	Knollenberg	Smith (TX)
Doolittle	LaHood	Smith (WA)
Dornan	Largent	Solomon
Doyle	Latham	Souder
Dreier	LaTourette	Spence
Duncan	Laughlin	Spratt
Dunn	Lazio	Stearns
Ehlers	Lewis (CA)	Stenholm
Ehrlich	Lewis (KY)	Stockman
Emerson	Lightfoot	Stump
English	Linder	Stupak
Ensign	Lipinski	Talent
Everett	Livingston	Tanner
Ewing	LoBiondo	Tate
Fawell	Lucas	Tauzin
Fields (TX)	Manzullo	Taylor (MS)
Flanagan	Martini	Taylor (NC)

Thomas	Vucanovich	Wicker
Thornberry	Walker	Wilson
Tiahrt	Walsh	Wolf
Torkildsen	Wamp	Young (AK)
Torricelli	Watts (OK)	Young (FL)
Traficant	Weldon (FL)	Zeliff
Upton	Weldon (PA)	Zimmer
Visclosky	Whitfield	

NOES—163

Abercrombie	Frost	Oberstar
Ackerman	Furse	Obey
Andrews	Gejdenson	Olver
Baessler	Gephardt	Ortiz
Baldacci	Gibbons	Orton
Barcia	Gilman	Owens
Barrett (WI)	Gonzalez	Pallone
Barton	Green	Pastor
Becerra	Gunderson	Payne (NJ)
Beilenson	Gutierrez	Payne (VA)
Bentsen	Harman	Pelosi
Berman	Hastings (FL)	Pomeroy
Bishop	Hilliard	Quinn
Boehlert	Hinchey	Rahall
Bonior	Houghton	Rangel
Borski	Hoyer	Reed
Boucher	Jackson (IL)	Richardson
Brown (CA)	Jackson-Lee	Rivers
Brown (FL)	(TX)	Ros-Lehtinen
Brown (OH)	Jefferson	Rose
Bryant (TX)	Johnson, E. B.	Roybal-Allard
Bunn	Kennedy (MA)	Sabo
Campbell	Kennedy (RI)	Sanders
Chapman	Kennelly	Sanford
Clay	Kildee	Sawyer
Clayton	Klecza	Schiff
Clyburn	Kolbe	Schroeder
Coleman	LaFalce	Schumer
Collins (MI)	Lantos	Scott
Conyers	Leach	Serrano
Coyne	Levin	Skaggs
de la Garza	Lewis (GA)	Skelton
DeFazio	Lincoln	Slaughter
DeLauro	Lofgren	Studds
Dellums	Longley	Tejeda
Diaz-Balart	Lowey	Thompson
Dicks	Luther	Thornnton
Dingell	Maloney	Thurman
Dixon	Manton	Torres
Doggett	Markey	Towns
Dooley	Martinez	Velazquez
Durbin	Matsui	Vento
Edwards	McCarthy	Volkmer
Engel	McDermott	Walder
Eshoo	McKinney	Waldholtz
Evans	McNulty	Ward
Farr	Meehan	Watt (NC)
Fattah	Meek	Waxman
Fazio	Menendez	Weller
Fields (LA)	Miller (CA)	White
Filner	Mink	Williams
Flake	Molinari	Wise
Foglietta	Mollohan	Woolsey
Ford	Morella	Wynn
Frank (MA)	Neal	Yates

NOT VOTING—12

Collins (IL)	Nadler	Rush
Hostettler	Peterson (FL)	Stark
Johnston	Porter	Stokes
Moakley	Radanovich	Waters

So the amendment was agreed to.

§31.16 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment, as modified, submitted by Mr. CHABOT:

Modify the amendment to read as follows: Strike section 401.

It was decided in the { Yeas 159
negative { Nays 260

¶31.17

[Roll No. 76]

AYES—159

Abercrombie	Green	Paxon
Andrews	Hall (OH)	Payne (NJ)
Baessler	Hastings (FL)	Pelosi
Barcia	Hastings (WA)	Petri
Bartlett	Hayworth	Pombo
Becerra	Hefner	Portman
Boehner	Hilleary	Poshard
Bonior	Hilliard	Quillen
Boucher	Hinchey	Rahall
Brown (CA)	Hoekstra	Ramstad
Brown (FL)	Jackson (IL)	Rangel
Brown (OH)	Jackson-Lee	Reed
Brownback	(TX)	Richardson
Bunn	Jacobs	Roemer
Bunning	Jefferson	Ros-Lehtinen
Buyer	Johnson, E. B.	Rose
Camp	Johnson, Sam	Roybal-Allard
Chabot	Jones	Salmon
Chapman	King	Sanders
Chenoweth	Kingston	Sanford
Chrysler	Klug	Scarborough
Clay	LaHood	Schroeder
Clayton	Lewis (GA)	Sensenbrenner
Clyburn	Lewis (KY)	Serrano
Coburn	Linder	Slaughter
Coleman	Longley	Smith (MI)
Collins (GA)	Lucas	Smith (NJ)
Collins (MI)	Manzullo	Smith (WA)
Conyers	Martinez	Souder
Cooley	Matsui	Stockman
Crane	McDade	Stupak
Crapo	McDermott	Tate
Cubin	McHugh	Taylor (NC)
DeLay	McIntosh	Tejeda
Dellums	McNulty	Thompson
Diaz-Balart	Meek	Tiahrt
Doolittle	Menendez	Torkildsen
Doyle	Mica	Torres
Durbin	Miller (FL)	Towns
Edwards	Mink	Upton
Ehlers	Mollohan	Velazquez
Engel	Murtha	Vento
English	Myers	Waldholtz
Ensign	Myrick	Walsh
Evans	Nethercutt	Ward
Ewing	Ney	Watt (NC)
Fields (LA)	Norwood	Weldon (PA)
Filner	Oberstar	White
Flake	Obey	Woolsey
Flanagan	Olver	Wynn
Fox	Ortiz	Yates
Funderburk	Owens	Young (AK)
Gibbons	Oxley	
Gillmor	Pastor	

NOES—260

Ackerman	Burr	Dooley
Allard	Burton	Dornan
Archer	Callahan	Dreier
Armey	Calvert	Duncan
Bachus	Campbell	Dunn
Baker (CA)	Canady	Ehrlich
Baker (LA)	Cardin	Emerson
Baldacci	Castle	Eshoo
Ballenger	Chambliss	Everett
Barr	Christensen	Farr
Barrett (NE)	Clement	Fattah
Barrett (WI)	Clinger	Fawell
Barton	Coble	Fazio
Bass	Combest	Fields (TX)
Bateman	Condit	Foglietta
Beilenson	Costello	Foley
Bentsen	Cox	Forbes
Bereuter	Coyne	Ford
Berman	Cramer	Fowler
Bevill	Cremins	Frank (MA)
Billbray	Cunningham	Franks (CT)
Bilirakis	Danner	Franks (NJ)
Bishop	Davis	Frelinghuysen
Bliley	de la Garza	Frist
Blute	Deal	Frost
Boehlert	DeFazio	Furse
Bonilla	DeLauro	Gallegly
Bono	Deutsch	Ganske
Borski	Dickey	Gejdenson
Brewster	Dicks	Gekas
Browder	Dingell	Gephardt
Bryant (TN)	Dixon	Geren
Bryant (TX)	Doggett	Gilchrest

Gilman	Leach	Roukema
Gonzalez	Levin	Royce
Goodlatte	Lewis (CA)	Sabo
Goodling	Lightfoot	Sawyer
Gordon	Lincoln	Saxton
Goss	Lipinski	Schaefer
Graham	Livingston	Schiff
Greenwood	LoBiondo	Schumer
Gunderson	Lofgren	Scott
Gutierrez	Lowe	Seastrand
Gutknecht	Luther	Shadegg
Hall (TX)	Maloney	Shaw
Hamilton	Manton	Shays
Hancock	Markey	Shuster
Hansen	Martini	Sisisky
Harman	Mascara	Skaggs
Hastert	McCarthy	Skeen
Hayes	McCollum	Skelton
Hefley	McCrery	Smith (TX)
Heineman	McHale	Spence
Hерger	McInnis	Spratt
Hobson	McKeon	Stearns
Hoke	McKinney	Stenholm
Holden	Meehan	Studds
Horn	Metcalf	Stump
Houghton	Meyers	Talent
Hoyer	Miller (CA)	Tanner
Hunter	Minge	Tauzin
Hutchinson	Molinari	Taylor (MS)
Hyde	Montgomery	Thomas
Inglis	Moorhead	Thornberry
Istook	Moran	Thornton
Johnson (CT)	Morella	Thurman
Johnson (SD)	Neal	Torricelli
Kanjorski	Neumann	Traficant
Kaptur	Nussle	Visclosky
Kasich	Orton	Volkmer
Kelly	Packard	Vucanovich
Kennedy (MA)	Pallone	Walker
Kennedy (RI)	Parker	Wamp
Kennelly	Payne (VA)	Watts (OK)
Kildee	Peterson (FL)	Waxman
Kim	Peterson (MN)	Weldon (FL)
Klaczka	Pickett	Weller
Klink	Pomeroy	Whitfield
Knollenberg	Pryce	Wicker
Kolbe	Quinn	Williams
LaFalce	Regula	Wilson
Lantos	Riggs	Wise
Largent	Rivers	Wolf
Latham	Roberts	Young (FL)
LaTourette	Rogers	Zeliff
Laughlin	Rohrabacher	Zimmer
Lazio	Roth	

NOT VOTING—12

Collins (IL)	Nadler	Solomon
Hottel	Porter	Stark
Johnston	Radanovich	Stokes
Moakley	Rush	Waters

So the amendment, as modified, was not agreed to.

After some further time,

¶31.18 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment, as modified, submitted by Mr. GALLEGLY:

Amend section 401 to read as follows (and conform the table of contents accordingly):

SEC. 401. EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.

Section 274A (8 U.S.C. 1324a) is amended—
(1) in subsection (a)(3), by inserting “(A)” after “DEFENSE.—”, and by adding at the end the following:

“(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

“(i) FAILURE TO SEEK CONFIRMATION.—

“(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the

individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

“(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the defense.

“(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”;

(2) by amending paragraph (3) of subsection (b) to read as follows:

“(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

“(A) if the person employs not more than 3 employees, retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

“(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

“(ii) in the case of the hiring of an individual—

“(I) three years after the date of such hiring, or

“(II) one year after the date the individual's employment is terminated, whichever is later; and

“(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses.”; and

(3) by adding at the end of subsection (b) the following new paragraphs:

“(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

“(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

“(i) responds to inquiries by employers, made through a toll-free telephone line, other electronic media, or toll-free facsimile